

## 0.a. Goal

Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

## 0.b. Target

Target 8.8: Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

## 0.c. Indicator

Indicator 8.8.2: Level of national compliance with labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status

## 0.d. Series

Not applicable

## 0.e. Metadata update

January 2021

## 0.f. Related indicators

This indicator links with 8.8.1 & 8.b.1; 16.2.2; 16.10.1; 16.a.1; 16.b.1

## 0.g. International organisations(s) responsible for global monitoring

International Labour Organization (ILO)

## 1.a. Organisation

International Labour Organization (ILO)

## 2.a. Definition and concepts

**Definition:**

The indicator measures the level of national compliance with fundamental rights at work (freedom of association and collective bargaining, FACB) for all ILO member states based on six international ILO supervisory body textual sources and also on national legislation. It is based on the coding of textual sources against a list of evaluation criteria and then converting the coding into indicators.

### Concepts:

## Freedom of association and collective bargaining rights and their supervision

The principles of freedom of association and collective bargaining (FACB) are and have long been at the core of the ILO's normative foundations. These foundations have been established in the ILO's Constitution (1919), the ILO Declaration of Philadelphia (1944), in two key ILO Conventions (namely the *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)* and the *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*) and the ILO Declaration on Fundamental Principles and Rights at Work (1998). They are also rights proclaimed in the Universal Declaration of Human Rights (1948) and other international and regional human rights instruments. With the adoption of the 1998 ILO Declaration, the promotion and realization of these fundamental principles and rights also became a constitutional obligation of all ILO member States.

FACB rights are considered as 'enabling rights', the realisation of which is necessary to promote and realise other rights at work. They provide an essential foundation for social dialogue, effective labour market governance and realization of decent work. They are vital in enabling employers and workers to associate and efficiently negotiate work relations, to ensure that both employers and workers have an equal voice in negotiations, and that the outcome is fair and equitable. As such they play a crucial role in the elaboration of economic and social policies that take on board the interests and needs of all actors in the economy. FACB rights are also salient because they are indispensable pillars of democracy as well as the process of democratization.

FACB rights, together with other international labour standards, are backed by the ILO's unique supervisory system. The ILO regularly examines the application of standards in member States and highlights areas where those standards are violated and where they could be better applied. The ILO's supervisory system includes two kinds of supervisory mechanisms: the regular system of supervision and the special procedures. The prior entails the examination of periodic reports submitted by member States on the measures taken to implement the provisions of ILO Conventions ratified by them. The special procedures, that is, representations, complaints and the special procedure for complaints regarding freedom of association through the Freedom of Association Committee, allow for the examination of violations on the basis of a submission of a representation or a complaint.

## 2.b. Unit of measure

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The unit of measurement is the number of coded evaluation criteria (see at Tables 1-2).

## 2.c. Classifications

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Not applicable

## 3.a. Data sources

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The method makes use of six ILO textual sources:

1. *Reports of the Committee of Experts on the Application of Conventions and Recommendations;*
2. *Reports of the Conference Committee on the Application of Standards;*
3. *Country Baselines Under the ILO Declaration Annual Review;*
4. *Representations under Article 24 of the ILO Constitution;*
5. *Complaints under Article 26 of the ILO Constitution; and*
6. *Report on the Committee on Freedom of Association.*

For non-ratifying countries, the method also codes relevant national legislation with the goal to offset information asymmetries between ratifying and non-ratifying countries as regards FACB rights in law. Ratifying countries are defined as those that have ratified both Conventions 87 and 98, in which case its national legislation is not coded at present. Non-ratifying countries, on the other hand, fall into two categories, those that have ratified neither 87 nor 98 and those that have ratified only one of these Conventions. If a country has ratified only 87, its national legislation is coded for violations pertaining to 98, as violations under 87 fall under the remit of the ILO's Committee of Experts as well as Committee on the Application of Standards. Similarly, if a country has ratified only 98, its national legislation is coded for violations pertaining to 87. Note that for federal states, only federal-level legislation is coded.

The coding of national legislation is carried out in close collaboration with the International Labour Office to assure that it is done in a manner consistent with the ILO's supervisory system. In addition, countries may also make available information on national legislation when reporting on this indicator through Voluntary National Reports or national reporting platforms or any other national reports.

### **3.b. Data collection method**

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Given that the statistical foundation of the indicator are the ILO textual sources (see above) and that those sources are themselves based on information provided by the Governments, workers' and employers' organizations, the data collection is carried out by the ILO.

The data collection is based on the coding of the relevant textual sources (see above) against a list of evaluation criteria and then converting the coding into indicators.

### **3.c. Data collection calendar**

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NA

### **3.d. Data release calendar**

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It is expected to be reported by the end of each year. 2018 data will be released in 2020. Currently it is planned to make both the 2019 and 2020 data available in 2021.

### **3.e. Data providers**

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Given that the statistical foundation of the indicator are the ILO textual sources (see below) and that those sources are themselves based on information provided by the Governments, workers' and employers' organizations, the data is provided by the ILO.

### **3.f. Data compilers**

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### 3.g. Institutional mandate

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In 2018, the 20th International Conference of Labour Statisticians (ICLS) adopted a ‘Resolution concerning the methodology of the SDG indicator 8.8.2 on labour rights’. Point (b) of the resolution recommends the International Labour Office to communicate on behalf of the ICLS the confirmation that the ILO should be the custodian agency for indicator 8.8.2, given that ILO textual sources are its statistical foundation.<sup>[1]</sup>

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<sup>1</sup> See at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms\\_648636.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648636.pdf) ↑

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### 4.a. Rationale

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The indicator measures the level of national compliance with fundamental rights at work (freedom of association and collective bargaining, FACB) for all ILO member states based on the coding of six ILO supervisory body textual sources and also on national legislation against a list of evaluation criteria and then converting the coding into indicators.

### 4.b. Comment and limitations

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Based on the consultation with the ILO’s tripartite constituents (i.e., representatives of government, employers’, and workers’ organizations), it was decided to prominently present the following chapeau text in the reporting of SDG indicator 8.8.2:

“SDG indicator 8.8.2 seeks to measure the level of national compliance with fundamental labour rights (freedom of association and collective bargaining). It is based on six International Labour Organization (ILO) supervisory body textual sources and also on national legislation. National law is not enacted for the purpose of generating a statistical indicator of compliance with fundamental rights, nor were any of the ILO textual sources created for this purpose. Indicator 8.8.2 is compiled from these sources and its use does not constitute a waiver of the respective ILO Constituents’ divergent points of view on the sources’ conclusions.”<sup>[2]</sup>

To highlight the difference between ratifying and non-ratifying countries, the following additional clarification is provided:

“SDG indicator 8.8.2 is not intended as a tool to compare compliance among ILO member States. It should specifically be noted that reporting obligations of an ILO member State to the ILO’s supervisory system and thus ILO textual sources are different for ratifying and non-ratifying ILO member States.”<sup>[3]</sup>

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<sup>2</sup> Idem. P. 17 ↑

<sup>3</sup> Idem. P. 18 ↑

## 4.c. Method of computation

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The method is based on the coding of textual sources (see above) against a list of evaluation criteria and then converting the coding into indicators. For the list of evaluation criteria, see Table 1 and 2 (pp. 6-12.) at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms\\_648636.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648636.pdf)

**The indicator has a range from 0 to 10, with 0 being the best possible score (indicating higher levels of compliance with FACB rights) and 10 the worst (indicating lower levels of compliance with FACB rights). For the purpose of computation, in the first step, the coding of textual sources is transformed into a binary coding, with 1 assigned to observed non-compliance and 0 to no observed non-compliance (unweighted raw scores). The binary coding is then multiplied by the weights as derived from the Delphi method (weighted raw scores). The final scores are the weighted raw scores normalized in a range from 0 to 10.**

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## Using the Delphi Method to Construct Evaluation Criteria Weights

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The weights were constructed with the use of the Delphi method. The application of the Delphi method involved two rounds of surveys conducted via email of internationally-recognized experts in labour law having knowledge of the ILO's supervisory system and particular knowledge of FACB rights as defined by the ILO. Regional representation was another consideration. Experts remained anonymous with respect to each other throughout the process.

# Applying the weights, normalization and default scores

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The raw coding uses the letters “a” through “g” (with each letter corresponding to one of the seven textual sources) to represent coded violations of FACB rights for each evaluation criteria, yielding a column of 180 cells for any given country and year. In order to apply the weights, any cell containing one or more letters is assigned a value of 1 and any blank cell for which there are no coded violations is assigned a value of 0, creating a binary coding column. The number of letters in a cell does not affect the construction of the binary coding column, in order to avoid double-counting given that the textual sources commonly reference each other. The cells of the column of weights are then multiplied by corresponding cells of the binary coding column, and summing across the cells of the resultant column yields a weighted non-normalized score for any given country and year.

To normalize the indicators over time, 95 is assigned as the maximum weighted non-normalized score for the indicator. This roughly equals to the maximum weighted non-normalized score of one-half of the countries having the most coded violations of FACB rights of workers and their organizations for the years 2000, 2005, 2009 and 2012. The highest weighted non-normalized score for several countries hovered around 80. On this basis, the non-normalized score for any given country and year is normalized to range in value from 0 to 10, the best and worst possible scores respectively. In the future, if any country should receive a non-normalized score of greater than 95, this will be capped at 95, yielding a normalized score of 10.<sup>[4]</sup>

In addition, the method applies the notion that general prohibitions in law imply general prohibitions in practice (though not vice versa). In terms of coding, this means that – both for workers and employers -the direct coding of “General prohibition of the right to establish and join organizations” in law automatically triggers the coding of “General prohibition of the development of independent organizations” in practice; the direct coding of “General prohibition of the right to collective bargaining” in law automatically triggers the coding of the “General prohibition of collective bargaining” in practice ; and, finally, for workers, the direct coding of “General prohibition of the right to strike” in law automatically triggers the coding of the “General prohibition of strikes” in practice . Given that the general prohibition of the development of independent organizations implies the general prohibition of collective bargaining (though not vice versa), similar coding rules apply.

In addition to the above normalization rules, the worst possible score of 10 is given for all-encompassing violations of FACB rights, that is, for “General prohibition of the right to establish and join organizations” in law, “General prohibition of the development of independent organizations” in practice, “General prohibition of the right to collective bargaining” in law, and “General prohibition of collective bargaining” in practice.

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<sup>4</sup> The formula is thus:  $(x \cdot 10 / 95)$ , where  $x$  = the weighted non-normalized score for a given country and year and is capped at 95. [↑](#)

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## 4.d. Validation

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The indicator is based on three key premises: (i) definitional validity – the extent to which the evaluation criteria and their corresponding definitions accurately reflect the phenomena they are meant to measure; (ii) transparency – how readily a coded violation can be traced back to any given

textual source; and (iii) inter-coder reliability – the extent to which different evaluators working independently are able to consistently arrive at the same results.

*Definitional validity.* As these are meant to be indicators of *international* FACB rights, the evaluation criteria and their corresponding definitions are directly based on the ILO Constitution, ILO Conventions No. 87 and 98 and the related body of comments of the ILO supervisory bodies.<sup>[5]</sup> Given that the ILO supervisory system is also guided by these definitions, this facilitates the coding itself given the heavy reliance on ILO textual sources produced by the supervisory system.

*Transparency.* A key rationale for the large number of evaluation criteria is to eliminate catchall evaluation criteria for violations of FACB rights not elsewhere coded, that is, violations for which there are no explicit evaluation criteria. This level of detail also facilitates the transparency of the method, in that very specific violations can be readily traced back to individual textual sources. This is made possible by the coding itself, in which violations are coded with the letters “a” through “g,” with each letter standing for one of the seven textual sources coded, as discussed below.

*Inter-coder reliability.* The method is based on clear and comprehensive coding rules as well as definitions for each of the evaluation criteria with the aim of making the indicators reproducible. Inter-coder reliability was assessed in the process of training teams of lawyers (sequentially and independently of each other) to do the coding and in double-checking their coding, which resulted in a number of clarifications and refinements to the coding rules and definitions. This process led to the conclusion that the inter-coder reliability of the method depends first and foremost on the coders being sufficiently well-trained and in particular being sufficiently well-versed in the coding rules and definitions to be able to apply them consistently.

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<sup>5</sup> The related body of comments of the ILO supervisory bodies are: *Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO* (ILO, 2006); *Freedom of Association and Collective Bargaining: General Survey of the Reports on the Freedom of Association and the Right to Organise Convention (No. 87), 1948, and the Right to Organise and Collective Bargaining Convention (No. 98) (ILO, 1994); General Survey on the Fundamental Conventions Concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization, 2008* (ILO, 2012). [↑](#)

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## 4.f. Treatment of missing values (i) at country level and (ii) at regional level

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- At country level

There is no treatment of missing values at country level. The indicator is not reported for non-ratifying countries, nor for countries for which ILO supervisory body textual sources do not provide sufficient amount of information in a specific year. The ILO will consult its constituents regarding which countries should be dropped from reporting for these reasons. Until then, the Office proposes continuing with the comparison with an externally-produced indicator to provide the starting point for the ILO Department of Statistics to consult internal and external sources and the tripartite constituents.

- At regional and global levels

For the computation of the regional aggregates, treatment of missing values (i.e. scores that are recommended to be dropped) is based on the following rules: 1. If scores are missing for all years, the country is dropped from the sample; 2. If scores are available for a single year, the available score is

used for all other years; 3. If scores are available for multiple but not all years, the missing value is computed as the average of available scores.

## 4.g. Regional aggregations

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The regional and global aggregates are weighted averages (with weights derived from ILO labour force estimates). To avoid biased estimations, regional aggregates include both countries that have and have not ratified ILO Convention Nos. 87 and 98. For non-ratifying countries, the scores are calculated based on the methodology adopted by the 2018 International Conference of Labour Statisticians ([https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms\\_648636.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648636.pdf)) and are used only for estimation of aggregate scores.

A country's weight is the share of its labour force in the global labour force for a given time period, where the labour force is derived from the latest edition of the ILO modelled estimates (for further information on the estimates, please refer to the ILO modelled estimates methodological description, available at <https://ilostat.ilo.org/resources/concepts-and-definitions/ilo-modelled-estimates/>). Regional averages, however, are only provided for regions where the proportion of the labour force of countries that have ratified ILO Convention nos. 87 and 98 to the total labour force is greater or equal to 25%, or, where the difference in absolute value between the regional aggregate including all countries and the regional aggregate including only countries that have ratified the ILO conventions is smaller or equal than 1.5.

## 4.h. Methods and guidance available to countries for the compilation of the data at the national level

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Not applicable

## 5. Data availability and disaggregation

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Data availability:

The data is available for ILO member states that ratified both ILO Convention no. 87 and 98, which is currently 154 countries.

Disaggregation:

The disaggregation by sex and migrant status is not currently available.

## 7. References and Documentation

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International Conference of Labour Statisticians (2018) 20<sup>th</sup>. Session, [www.ilo.org/20thicls](http://www.ilo.org/20thicls)